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7 ERICKA SHIRLEY GALLEGOS,  
8 Plaintiff,  
9 v.  
10 DEBORAH K. JOHNSON,  
11 Defendant.

Case No. 16-cv-02720-EMC

**ORDER TO SHOW CAUSE**

Docket No. 1

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13 In 2013, Petitioner Ericka Shirley Gallego was found guilty of kidnapping a child under  
14 fourteen years old and residential burglary, and sentenced to eight years in state prison. Docket  
15 No. 1-1 (Memorandum of Points & Authorities to Petition for Writ of Habeas Corpus) (Mem.) at  
16 2. Gallego is now incarcerated at Central California Women's Facility in Chowchilla, California.  
17 *Id.* at 1. Gallego's petition for a writ of habeas corpus was denied by the Contra Costa Superior  
18 Court on January 8, 2016, by the California Court of Appeal on February 10, 2016, and by the  
19 California Supreme Court on May 18, 2016. *See* Mem., Exhs. D-F. Gallego has now filed a  
20 petition for habeas relief, claiming ineffective assistance of counsel and denial of due process. *Id.*  
21 at 1.

22 The Court may entertain a petition for writ of habeas corpus "in behalf of a person in  
23 custody pursuant to the judgment of a State court only on the ground that he is in custody in  
24 violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2244(a). It  
25 shall "award the writ or issue an order directing the respondent to show cause why the writ should  
26 not be granted, unless it appears from the application that the applicant or person detained is not  
27 entitled thereto." 28 U.S.C. § 2243. Summary dismissal is appropriate only where the allegations  
28 in the petition are vague or conclusory, palpably incredible, or patently frivolous or false. *See*

1      *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

2      Here, it does not appear from the face of the petition that it is patently without merit, as  
3      one or more claims are exhausted. Good cause appearing, the Court hereby issues the following  
4      orders:

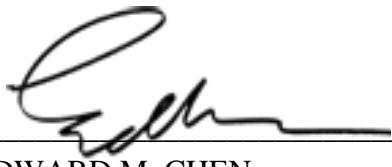
5      1.      The Clerk shall serve by certified mail a copy of this order and the petition and all  
6      attachments thereto upon Respondents. The Clerk shall also serve a copy of this order (via  
7      electronic filing) on Petitioner's counsel.

8      2.      Respondents shall file with the Court and serve on Petitioner, within 60 days of the  
9      date of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing Section  
10     2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall  
11     file with the answer all portions of the state record that have been transcribed previously and are  
12     relevant to a determination of the issues presented by the petition.

13     3.      If Petitioner wishes to respond to the Answer, she shall do so by filing a Traverse  
14     with the Court and serving it on Respondent within thirty days of his receipt of the Answer. If she  
15     does not do so, the Petition will be deemed submitted and ready for decision on the date the  
16     Traverse is due.

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18     **IT IS SO ORDERED.**

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20     Dated: June 29, 2016



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22     EDWARD M. CHEN  
23     United States District Judge

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